

**This document has been electronically entered in the records of the United States Bankruptcy Court for the Southern District of Ohio.**

**IT IS SO ORDERED.**

**Dated: January 18, 2017**



  
**C. Kathryn Preston**  
**United States Bankruptcy Judge**

---

**UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION AT COLUMBUS**

*In re:* : Case No. 11-58239  
Troy L. Brewer, : Chapter 13  
Maria A. Brewer, :  
Debtors. : Judge C. Kathryn Preston

**ORDER DENYING  
MOTION FOR DETERMINATION THAT MORTGAGE/LIEN IS  
WHOLLY UNSECURED AND VOID  
DUE TO NONCOMPLIANCE WITH RULES (DOC. #62)**

This matter is before the Court on the Motion for Determination the Mortgage/Lien is Wholly Unsecured and Void (Doc. #62) (“Motion”) filed by Troy L. Brewer and Maria A. Brewer (“Movant”) on December 16, 2016. Having reviewed the Motion, the Court finds it fails to comply with Federal Rules of Bankruptcy Procedure 4003(d), 7004, 9014 and/or Local Bankruptcy Rules for the following reasons<sup>1</sup>:

---

<sup>1</sup>See notice posted under the Policies and Procedures section of Judge Preston’s page on the Court website regarding service of a motion to avoid lien(s). *See* Preston, J., *Notice Re: Service of Motions to Avoid Lien(s)* (October 30, 2014, updated November 1, 2016) <https://www.ohsb.uscourts.gov/OHSB/HearingSchedules/Columbus/Preston,CKathryn/131224840791564842.pdf>.

- ☒ Service upon a business entity must be directed to a *specific officer*, managing or general agent, or other agent authorized to receive service of process. Fed. R. Bankr. P. 7004(b)(3). Such service was not properly made.
- ☐ Service upon a FDIC insured financial institution must be made by certified mail on a specific officer of the institution unless the institution has appeared by its attorney, in which case the attorney shall be served by first class mail. Fed. R. Bankr. P. 7004(h). Such service was not properly made.
- ☐ Service upon the United States must include service upon the local United States Attorney and upon the United States Attorney General. Fed. R. Bankr. P. 7004(b)(4). Such service was not properly made.
- ☐ Service upon any officer or agency of the United States must include service upon the local United States Attorney, the United States Attorney General, and to the officer or agency. Fed. R. Bankr. P. 7004(b)(5). Such service was not properly made.
- ☐ Service upon a state or municipal corporation or other state governmental organization must be made as prescribed by the law of the state in which service is made when an action is brought against such a defendant in the courts of general jurisdiction of that state. Fed. R. Bankr. P. 7004(b)(6). Such service was not properly made.
- ☐ In addition to the other service requirements that may be applicable, including but not limited to Rule 9014 and Rule 7004, if a motion is not served on the respondent at the respondent's address as set forth in debtor's petition or schedules, the notice address on the proof of claim or an address on the respondent's prior filing, the movant shall explain the basis for the validity of the address used for service. L.B.R. 9013-3(g). Such service was not properly made or explained.
- ☒ Other: The Motion fails to specify the event upon which the second mortgage of Creditor Vericrest Financial will be avoided. Motion ¶ 9.

It is **ORDERED** that if (1) a filing deadline applies to the document that is the subject of this order, (2) the document was filed within that deadline, but such deadline had expired on the date this order was entered or will expire within 10 days from the date of entry of this order and (3) the Federal Rules of Bankruptcy Procedure do not preclude an enlargement of the deadline for filing the document, then the party filing the document shall have 10 calendar days from the date of entry

of this order to file a motion which corrects the deficiencies described above. If the time period for filing the document has not already expired, but instead will expire on a date that is later than 10 days after the date of entry of the order, then the party will have until such date to file a motion which corrects the deficiencies.

The Motion is therefore **DENIED** without prejudice.

**IT IS SO ORDERED.**

Copies to:

Default List Plus Additional Parties

Vericrest Financial 16745 W Bernardo Dr Ste 300, San Diego CA 92127-1908  
MERS Mortgage Electronic Reg, POB 2026, Flint, MI 48501  
Deutsche Bank Nat'l Trust Co, as Trustee, LSF6Mercury REO Investments Trust Series, 16745  
W. Bernardo Dr. Ste 300, San Diego CA 92127,  
Deutsche Bank National Trust Company c/o Manley, Deas, Kochalski P.O. Box 165028  
Columbus, OH 43216-5028  
MORTGAGE ELECTRONIC REG POB 2026 Flint, MI 48501-2026;  
MANLEY DEAS KOCHALSKI 495 S BROAD ST STE 300, Columbus, OH 43215;  
Joe Anderson, CEO, Vericrest Financial Inc., PO Box 165028, Columbus OH 43216-5028  
Vericrest Financial Inc., fka The Cit Group, 13801 Wireless Way, Oklahoma City OK 73134  
Manley Deas Kochalski, P.O. Box 165028, Columbus, OH 43216  
Vericrest Financial Inc., fka The Cit Group, 13801 Wireless Way, Oklahoma City OK 73134  
Mary E. Krasovic (0085380), Holly N. Wolf (0068847), Attorneys for Manley Deas Kochalski  
LLC, P.O. Box 165028, Columbus OH 43216-5028;

###